



## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Arthur Jackson, Case Manager  
Joel Lawson, Associate Director Development Review

**DATE:** December 13, 2011

**SUBJECT:** **BZA Case 18291** – 1140 6<sup>th</sup> Street NE

### **I. SUMMARY RECOMMENDATION**

The Office of Planning (OP) **does not support** variances requested to further increase the allowable lot occupancy under § 401 and to waive the onsite parking required under § 2101.1 for a child development center use for 50 children and 12 staff proposed on the above-referenced property.

OP also thinks the associated second-floor addition would require relief from the rear yard setback required under § 404.1 and provisions governing additions to nonconforming structure under § 2003.1. **Relief from these provisions is also not supported.** The application did not adequately explain how these zoning provisions create a practical difficulty in this case.

This application originally requested special exception relief pursuant to § 205 for the above-referenced child development center use. However, since the application was filed, the Zoning Administrator determined that a child development center use is allowed as a matter of right under § 330.5 (e) because the existing structure on the property has been in continuous use as a church since its construction. The request for the special exception relief was therefore withdrawn.

### **II. AREA AND SITE DESCRIPTION**

Address:	1140 6 <sup>th</sup> Street NE
Legal Description:	Square 829 Lots 0065
Ward:	6C
Lot Characteristics:	The subject rectangular interior lot is 13,588 square feet (0.31 acre) in size and bordered to the east by 6 <sup>th</sup> Street NE and to the north and west by is 10-feet wide. The property is also located opposite Orleans Place NE, an intersecting one-way street that exits onto 6 <sup>th</sup> Street.
Existing Development:	The current two-story Mt. Olive Baptist Church that was constructed in 1972. It is connected by a narrow open canopy to the one-story “old” church that was originally constructed in 1873 then rebuilt in 1919. A paved driveway that extends between the buildings from the 6 <sup>th</sup> Street/Orleans Place frontage ends before it reaches the rear alley. A coated six-foot tall metal chain link fence wraps around the side and rear yards of the new church building and there is no parking on the property (refer to Figures 1 and 2).



Zoning:	R-4 – child development center uses are allowed as a matter of right under § 330.5 (b) when located in buildings that have been in continuous use as churches since construction.
Historic District:	None
Adjacent Properties:	Two-story one-family row dwellings along both side 6 <sup>th</sup> Street and across the alley to the west.
Surrounding Neighborhood Character:	Moderate-scale residential uses.

### III. APPLICATION IN BRIEF

**Applicant:** Mt. Olive Baptist Church, the owner of record

**Proposal:** Renovate the ground floor of the old church building for a child development center use and replace its peaked roof with a 51 x 78- foot second floor.

This new floor would project beyond northern building wall and across the driveway to the new church building. The addition would provide the interior recreation space for the child development center use and additional church meeting space. The existing driveway would be continued to the rear public alley. Parents would then be able to drive into the site from 6<sup>th</sup> Street, drop-off or pick-up children at the center and the return to 6<sup>th</sup> Street via the public alley.

These buildings have been connected by the canopy since the new church was constructed in 1972. Buildings connected in this manner are considered to be a single structure for the purposes of zoning. The applicant explained to the Zoning Administrator that, because the periods when the “old” and “new” buildings were used as churches overlap, there is no period when one or the other was not used as a church. Based in part on this information, the Zoning Administrator determined that the proposed child development center use is allowed as a matter of right because this “structure” has been in continuous use as a church since construction. Since zoning relief for this use was no longer required, the applicant asked to withdraw this portion of the application in their Pre-Hearing Statement dated December 6, 2011.

The planned child development center would serve up to 50 children 6-years old and younger with a staff of 12. Submitted plans did not provide the three onsite parking spaces required for the 12 staff under § 2101.1 and no designated parking area currently exists on the property.

The existing structure occupies 63% of the lot which exceeds the maximum 60% allowed in R-4 under § 403.2. The projection of the proposed second-floor addition would increase this non-conforming aspect of the property to 73%, 13% more than the maximum allowed. The proposed addition would be set back from the rear boundary five feet, less than the 20 feet required under § 404.

**Relief and Zoning:** The revised application still requires variance relief to eliminate the onsite parking requirement, further increase the non-conforming lot occupancy, reduce the rear yard setback and to waive conditions for additions to nonconforming structures.



Figure 1: Mt. Olive Baptist Church buildings

#### IV. ZONING REQUIREMENTS and REQUESTED RELIEF

<b>R-5-B District</b>	<b>Regulation</b>	<b>Existing</b>	<b>Proposed <sup>1</sup></b>	<b>Relief:</b>
Height (ft.) § 400	40 feet	< 38 feet, 1 story	38 feet, 2 stories	None required
Lot Width (ft.) § 401	40 feet	136 feet	SAME	None required
Lot Area (sq. ft.) § 401	4,000 sq. ft.	13,588 sq. ft.	SAME	None required
Floor Area Ratio § 401	None prescribed	None prescribed	None prescribed	None required
Lot Occupancy § 403	60 % max.	63 %.	73 %	<b>+ 13%</b>
Rear Yard (ft.) § 404	20 feet min.	5 feet	SAME	<b>- 15 feet</b>
Side Yard (ft.) § 405	None prescribed	5 feet	SAME	None required
Court, Open § 406	10 ft. (minimum)	15-19 feet	15 feet	None required
Parking § 2101.1	1 per 4 employees (min. 3 spaces)	0 space	0 space	<b>- 3 spaces</b>

#### V. OFFICE OF PLANNING ANALYSIS

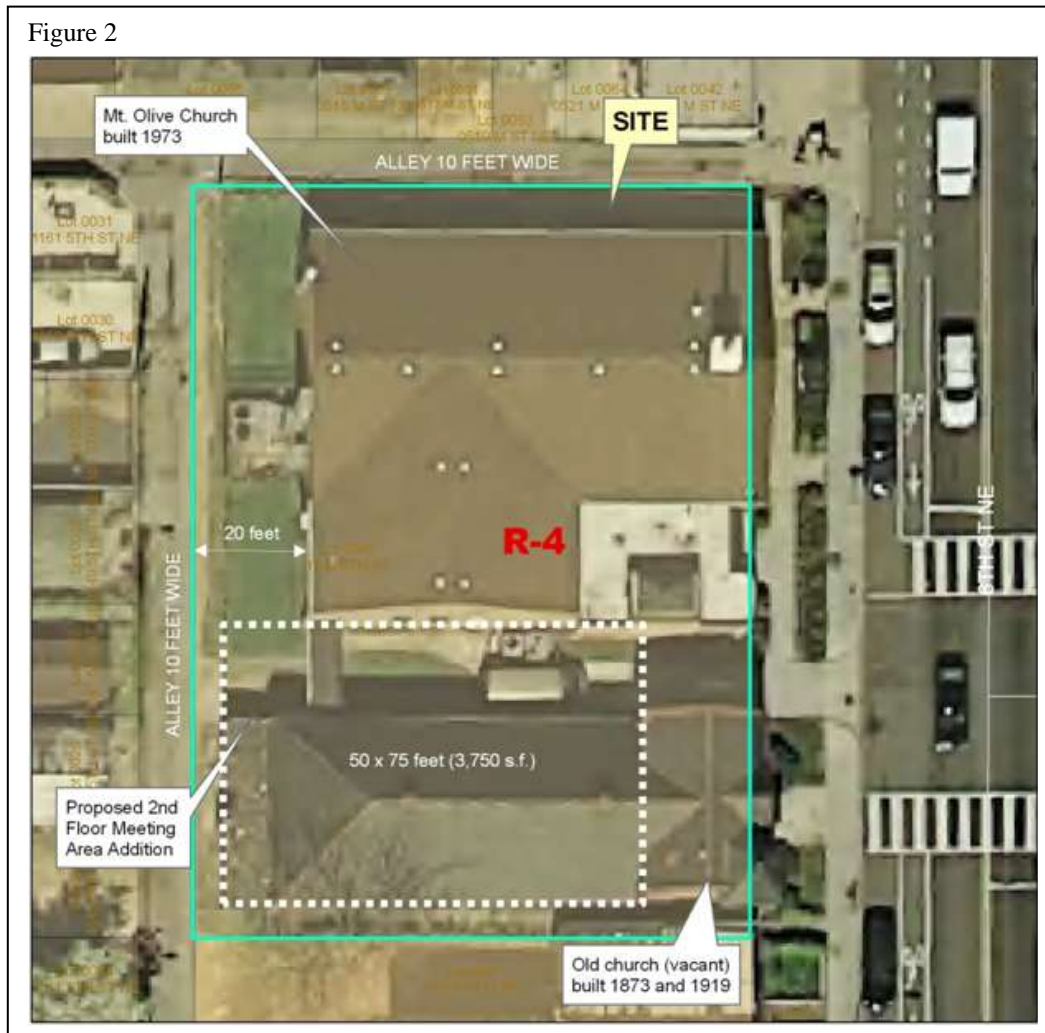
##### Compliance with § 3103.2

- *Unique conditions or circumstances:* According to the application the unique condition is that the old and new church buildings are on the same property. OP agrees that the existing building configuration on the lot is a unique condition, but the variance test is that the unique condition results in a practical difficulty.
- *Exceptional practical difficulty:*
  - Lot occupancy: The current lot occupancy of 63% exceeds the allowable 60% in the R-4 district. The application stated that the non-conforming lot occupancy and the structure configuration prevent the renovation of the old church building. However, structural alternations, modernizations and repairs, such as those that might be associated with a major rehabilitation are allowed to non-conforming structures under § 2001.2. The applicant has not demonstrated that the proposed new/extended uses are so critical to the use of the site that a potentially smaller child development center or other use(s) could not be accommodated within existing first floor and basement of the old church building.
  - Parking requirement: The existing building figuration does not render the balance of the property unusable. The 20-foot wide yard between the new building and the alley is sufficient for several parking spaces oriented perpendicular to, and with direct access from the alley.
  - Rear yard setback requirement: Even if additional lot occupancy was approved, the application does not explain why the proposed addition cannot respect the required 20-foot rear yard setback.

Accordingly the application failed to establish that the unique configuration of the existing structure and the current lot occupancy present a practical difficulty to meeting the listed zoning provisions.<sup>2</sup>

<sup>1</sup> Based on the architectural plans submitted by the applicant.

<sup>2</sup> Granting the requested zoning relief would address the inconsistencies with § 2001.3



- *Detriment to the Public Good:* There is no indication that constructing an addition that would further increase the non-conforming lot occupancy, and replicates the existing non-conforming rear yard setback of the old church building would negatively impact the neighboring properties. *However, not locating the parking required for the proposed use onsite could impact the on-street parking resources available nearby during center operating hours.*
- *Impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map:* Since the application did not establish that an existing site condition presents a practical difficulty, approving the requested variances would be detrimental to the public good because this action would impair the intent, purpose and integrity of the zone plan.

## VI. AGENCY COMMENTS

In a memorandum to the Board of Zoning Adjustment dated December 12, 2011, the District Department of Transportation expressed no objection to the requested parking variance. *The agency also recommended the provision of alternative parking arrangements or transportation demand management (TDM) measures for the use of center staff.*

## VII. COMMUNITY COMMENTS

On November 21, 2011, Advisory Neighborhood Commission (ANC) 6C voted to support this application after the applicant addressed the concern about a lack of outdoor play space.